REQUEST FOR PROPOSAL
for the
Sale and Transfer of Nursing Home Beds
for
THE COUNTY OF PHILADELPHIA

Issued by:
THE COUNTY OF PHILADELPHIA ("County")
Department of Public Health

Date of Issuance:
Friday, August 29, 2014

Date of Amendment:
Friday, September 19, 2014

DEADLINE EXTENDED
Proposals must be received no later than 5:00 p.m. Philadelphia, PA, local time, on Friday, October 3, 2014.

Michael A. Nutter, Mayor
James W. Buehler, MD, Commissioner, Department of Public Health
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PART I
GENERAL INFORMATION FOR THE RESPONDENTS

I-1. PURPOSE. This Request for Proposal ("RFP") intends to provide interested, potential respondents ("Respondents" or "Purchasers") with sufficient information to enable them to prepare and submit Proposals for consideration by the County of Philadelphia ("County" or "Seller") for the sale and transfer of ninety-seven (97) licensed nursing beds ("transaction").

- The County is interested in selling the entire complement of 97 beds to a single Purchaser but will consider Proposals from multiple Respondents for fewer beds.
- Proposals requesting less than 97 beds may be modified by County to achieve the highest number of licensed beds sold and transferred.

Only Respondents that are enrolled and certified as providers of nursing facility services in the Pennsylvania Medical Assistance ("MA") Program and the Federal Medicare Program may submit a Proposal to this RFP to purchase the beds. To effectuate the transfer of beds from Seller to Purchaser's facility, Purchaser must prepare and submit to the Commonwealth of Pennsylvania’s Department of Public Welfare (hereinafter "DPW" or "Department") a “Bed Transfer Request” in accordance with 55 Pa. Code, Ch. 1187.161 et. seq., Nursing Facility Participation Requirements and Review Process (hereinafter "Bed Transfer Request"). The highest price proposed per bed is a material factor to the County, but is not the sole, or necessarily the determining factor for award. The County may, at its sole discretion, award a contract resulting from this RFP to Respondents not offering the highest price. In its evaluation, the County may consider, without limitation, the Respondent whose Bed Transfer Request presents the highest likelihood of approval by DPW. The County must ensure that the transferee facility agrees that any new or additional bed(s) purchased shall be licensed, MA-certified and available for immediate occupancy before the County decertifies and closes a bed.

This RFP does not commit the County to award a contract. This RFP and the process it describes are proprietary to the County and are for the sole and exclusive benefit of the County. No other party, including any Respondent, is intended to be granted any rights hereunder. Any Proposal, including written documents and verbal communication, by any Respondent to this RFP, shall become the property of the County and may be subject to public disclosure by the County, or any authorized agent of the County.
I-2. PHILADELPHIA NURSING HOME. Philadelphia Nursing Home (“PNH”), one of the largest nursing homes in Pennsylvania, is a four-hundred fifty-one (451) bed County-owned facility located at Girard and Corinthian Avenues in Philadelphia, PA. PNH has been in existence since 1976. Since January of 1994, the County transferred to Episcopal Long Term Care (“ELTC”) and subsequently Fairmount Long Term Care (“FLTC”), complete operating and managerial responsibility for PNH. All beds are dually licensed and Medicare and Medicaid program certified.

I-3. ISSUING OFFICE and ISSUING OFFICER. This RFP is issued by the County's Department of Public Health (the "Issuing Office"). The sole point of contact within the County for this RFP shall be the Issuing Officer:

Kevin E. Vaughan
Deputy Commissioner,
Philadelphia Department of Public Health
1401 JFK Blvd., Suite 600
Philadelphia, PA 19102
215-686-2129
Email: kevin.vaughan@phila.gov

From the issue date of this RFP until the County selects a Proposal(s) for award or otherwise closes this opportunity, the Issuing Officer is the sole point of contact within the County concerning this RFP. Any communications by Respondent concerning this RFP with any person other than the Issuing Officer is a violation of this condition and may be cause for the County to reject the Respondent's Proposal to this RFP and/or rescind its selection. Respondents must agree not to distribute any part of their Proposal beyond the Issuing Office without the express written consent of the Issuing Officer. A Respondent who, without the express written consent of the Issuing Officer, shares information contained in its Proposal with other County officials, personnel or agents may be disqualified.

I-4. RFP INFORMATION. The County will make this RFP available on the City of Philadelphia’s RFPs Online website located at http://www.phila.gov/rfp. Any and all interested parties can download this RFP and relevant material from that website. Any changes or updates to the RFP will be posted at the same location. Please check the website periodically to determine whether new or updated information has been made available.

I-5. NO RESPONSIBILITY FOR COSTS AND NO REFUND OF DEPOSIT UPON SIGNING OF BED TRANSFER AGREEMENT.

The County is not liable for any direct or indirect costs incurred by Respondents as a result of preparing and submitting a Proposal in response to this RFP or for any costs, expenses and legal fees incurred by Respondents in meeting with or making oral presentations to the County or in connection with evaluation and approval by DPW. Under no conditions will the County will refund the deposits provided after signing of Bed Transfer Agreements. Under certain conditions, as outlined in the Sample Bed Transfer Agreement, will the County refund partial sale price.
I-6. **COUNTY’S RESERVATION OF RIGHTS.** In connection with the issuance of this RFP, the County reserves and may, in its sole discretion, exercise any one or more of the following rights and options which Respondent agrees to by submitting a Proposal to this RFP:

**RFP Issuance**

(a) to reject any and all Proposals and to reissue this RFP at any time prior to execution of a final agreement;

(b) to reject any Proposal if the County, in its sole discretion, determines the Proposal is incomplete, deviates from or is not responsive to the requirements of this RFP, does not comply with applicable law, is conditioned in any way, or contains ambiguities, alterations or counter terms, or if the County determines it is otherwise in the best interest of the County to reject the Proposal;

(c) to issue a new RFP with terms and conditions substantially different from those set forth in this or a previous RFP;

(d) to issue a new RFP with terms and conditions that are the same or similar as those set forth in this or a previous RFP in order to obtain additional Proposals or for any other reason the County determines to be in the County’s best interest;

(e) to extend this RFP in order to allow for time to obtain additional Proposals prior to the RFP’s Proposal deadline or for any other reason the County determines to be in the County’s best interest;

(f) to supplement, amend, substitute or otherwise modify this RFP at any time prior to issuing a notice of intent to contract to one or more Respondents;

(g) to cancel this RFP at any time prior to the execution of a final agreement, whether or not a notice of intent to sell has been issued, with or without issuing, in the County’s sole discretion, a new RFP for the same or additional licensed beds;

(h) to do any of the foregoing without notice to Respondents or others, except such notice as the County, in its sole discretion, elects to post on RFPs Online (www.phila.gov/rfp).

**Proposal Selection & Award Process:**

(a) to reject any Proposal if, in the County’s sole judgment, the Respondent has been delinquent or unfaithful in the performance of any contract with the City of Philadelphia or with others; is delinquent, and has not made arrangements satisfactory to the City, with respect to the payment of County taxes or taxes collected by the County on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is not in compliance with City regulatory codes applicable to Respondent; is financially or technically incapable; or is otherwise not a responsible Respondent;

(b) to reject any Proposal that, in the County’s sole judgment would prevent the Commonwealth from approving the bed sale transfer;

(c) to reject any Proposal, if in the County’s sole judgment, the Respondent is found to be in violation of representations listed in Section I-14.
(d) to waive any defect or deficiency in any Proposal, including, without limitation, those identified in subsection (a) preceding, if, in the County’s sole judgment, the defect or deficiency is not material to the Proposal;

(e) to require, permit or reject, in the County’s sole discretion, amendments (including, without limitation, information omitted), modifications, clarifying information, and/or corrections to their Proposals by some or all of the Respondents at any time following Proposal submission and before the execution of a final contract;

(f) to issue a notice of intent to contract and/or execute a contract for any or all of the items in any Proposal, in whole or in part, as the County, in its sole discretion, determines to be in the County’s best interest;

(g) to enter into negotiations with any one or more Respondents regarding price, scope of purchase, or any other term of their Proposals, and such other contractual terms as the County may require, at any time prior to execution of a final contract, whether or not a notice of intent to contract has been issued to any Respondent and without reissuing this RFP;

(h) to enter into simultaneous, competitive negotiations with multiple Respondents or to negotiate with individual Respondents, either together or in sequence, and to permit or require, as a result of negotiations, the expansion or reduction of the scope of the submitted Proposals or changes in any other terms of the submitted Proposal, without informing other Respondents of the changes or affording them the opportunity to revise their Proposals in light thereof, unless the County, in its sole discretion, determines that doing so is in the County’s best interest;

(i) to discontinue negotiations with any Respondent at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued to the Respondent, and to enter into negotiations with any other Respondent, if the County, in its sole discretion, determines it is in the best interest of the County to do so;

(j) to rescind, at any time prior to the execution of a final contract, any notice of intent to contract issued to an Respondent, and to issue or not issue a notice of intent to contract to the same or a different Respondent and enter into negotiations with that Respondent, if the County, in its sole discretion, determines it is in the best interest of the County to do so;

(k) to elect not to enter into any contract with any Respondent, whether or not a notice of Intent to Contract has been issued and with or without the reissuing this notice of contract opportunity, if the County determines that it is in the County’s best interest to do so;

(l) to require any one or more Respondents to make one or more presentations to the County at the County’s offices or other location as determined by the County, at the Respondent’s sole cost and expense, addressing the Respondent’s Proposal;

(m) to conduct on-site investigations of the facilities of any one or more Respondents (or the facilities where the Respondent performs its services);

(n) to conduct such investigations with respect to the financial, technical, and other qualifications of each Respondent as the County, in its sole discretion, deems necessary or appropriate; and,

(o) to do any of the foregoing without notice to Respondents or others, except such notice as the County, in its sole discretion, elects to post on the County’s website.
I-7. HIPAA Requirements. This transaction may be subject to the federal Health Insurance Portability and Accountability Act (HIPAA), as amended, and/or other state or federal laws or regulations governing the privacy and security of health information. To the extent HIPAA is applicable, the selected Respondent(s) must comply with and any resulting contract must contain the “Terms and Conditions Relating to Protected Health Information” which are available for review on the City of Philadelphia’s online contracting website, https://secure.phila.gov/eContract/ under the “About” link.

I-8. TAX AND REGULATORY STATUS. Respondent(s) must be current with respect to the payment of County taxes or other indebtedness owed to the County of Philadelphia (including, but not limited to, taxes collected by the County on behalf of the School District of Philadelphia), and not in violation of other regulatory provisions contained in The Philadelphia Code. Accordingly, prior to any selection decisions, each Respondent will be checked for its compliance status with all related taxes and indebtedness. If Respondent is not in compliance with the County’s tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Respondent will not be eligible for award of any agreement contemplated by this RFP.

I-9. QUESTIONS and ANSWERS. All questions concerning this RFP must be submitted in writing via email to the Issuing Officer no later than seven (7) business days prior to the deadline for Proposal submission; questions received after that date will not be answered unless the County, in its sole discretion, elects to provide an answer. The City reserves the right to combine, rewrite or modify questions received; no individual Proposals will be issued.

The County will respond to questions considered appropriate to the RFP and of interest to all Respondents, but reserves the right, in its discretion, not to respond to any question. Answer will be posted on the City of Philadelphia’s website at www.phila.gov/rfp, in the same location where the RFP has been made available. All questions and answers posted by the Issuing Office on the web site are an addendum to, and become part of this RFP and are thereby incorporated therein by reference. Each Respondent shall be responsible for monitoring the web site for new or revised RFP information. The County reserves the right, in its discretion, to revise answers questions after posting, by posting the modified answer. No oral response to any Respondent’s question by any City/County employee or agent shall be binding on the County or in any way considered to be a commitment by the County nor shall the County be bound by any written information that is not either contained within the RFP or formally issued and posted as an addendum to this RFP by the Issuing Office.

Issuing Office will strive to post answers to questions each Monday during the posting period with the last set of questions and answers posted on Monday, 9/29/14.
I-10. COMPLETED PROPOSAL DATE. To be considered, a completed Proposal to this RFP must:

(1) Be delivered to the Issuing Officer by Friday, October 3, 2014 at 5:00 P.M., Philadelphia, PA, local time (no Proposal delivered after the date/time indicated will be accepted); and
(2) Be signed by an authorized official of the Respondent.
(3) Notwithstanding the foregoing, the Issuing Officer reserves the right to accept a late Proposal if it is in the best interest of the County to do so.

I-11. NEWS RELEASE. Respondents shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this RFP or their Proposal without prior written approval of the Issuing Officer, and then only in coordination with the Issuing Office.

I-12. PUBLIC DISCLOSURE & CONFIDENTIALITY. All material submitted with the Proposal shall be considered the property of the County of Philadelphia. Notwithstanding any Respondent(s)’ copyright designations contained in its Proposal, the County shall have the right to make copies and distribute Proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

(a) The successful Respondent(s) shall treat all information obtained from the County which is not generally available to the public as confidential and/or proprietary to the County.
(b) The successful Respondent(s) shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person.
(c) The successful Respondent(s) agrees to indemnify and hold harmless the County, its officials, employees, and agents from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney’s fees) resulting from any use or disclosure of such confidential and/or proprietary information by the successful Respondent(s) or any person acquiring such information, directly or indirectly, from the successful Respondent(s).

By submission of a Proposal, Respondents acknowledge and agree that the County, as a municipal corporation of the Commonwealth of Pennsylvania, is subject to state and local public disclosure laws and, as such, is legally obligated to disclose to the public documents, including Proposals, to the extent required thereunder. Without limiting the foregoing sentence, the County's legal obligations shall not be limited or expanded in any way by a Respondent’s assertion of confidentiality and/or proprietary data.
I-13. **RESPONDENT'S REPRESENTATIONS AND AUTHORIZATIONS.** Each Respondent, by submitting its Proposal and continuing throughout the RFP process, understands, represents, and acknowledges that:

(a) All information provided by, and representations made by, the Respondent in the Proposal are material and important and will be relied upon by the County in selecting a winning Proposal(s). Any misstatement may, if warranted, be treated as a fraudulent concealment from the County of the true facts relating to the submission of this Proposal. Misrepresentations are punishable under 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

(b) The Proposal for this Transfer/Sale of Bed Licenses has been arrived at independently and without consultation, communication or agreement with any other Respondent or potential Respondent.

(c) The Proposal has not been disclosed to any other firm or person who is a Respondent or potential Respondent. The Price will not be disclosed on or before the Proposal submission deadline previously specified. The Proposal is made in good faith. No attempt has been made or will be made to induce any firm or person to refrain from submitting a noncompetitive Proposal or other form of collusive Proposal.

(d) To the best of the knowledge of the person signing the Proposal for the Respondent, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, except as disclosed by the Respondent in its Proposal.

(e) To the best of the knowledge of the person signing the Proposal for the Respondent and except as otherwise disclosed by the Respondent in its Proposal, the Respondent has no outstanding, delinquent obligations to the Commonwealth of Pennsylvania including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Respondent that is owed to the Commonwealth. Respondent by submission of its proposal represents that all of the conditions are met as specified in 55 Pa. Code Chapters 1187 and 1189, "Participation Review Process for Medical Assistance Nursing Facilities," dated June 30, 2012.

(f) The Respondent is not currently under suspension or debarment by the County, Commonwealth, or any other state, or the federal government, and if the Respondent cannot so certify, then it shall submit along with its Proposal a written explanation of why such certification cannot be made.

(g) Each Respondent, by submitting its Proposal, authorizes all agencies of the Commonwealth of Pennsylvania to release to the County information related to the Respondent's liabilities to the Commonwealth, including, but not limited to, taxes, unemployment compensation and workers' compensation liabilities, as well as any other information maintained by the Commonwealth for which Respondent's consent is a prerequisite to release.

(h) Each Respondent, by submitting its Proposal, attests that it is not delinquent or unfaithful in the performance of any contract or agreement with the County or City of Philadelphia or with others; is not delinquent, and has made
arrangements satisfactory to the City, with respect to the payment of County taxes or taxes collected by the County on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is in compliance with City regulatory codes applicable to Respondent; is not financially or technically incapable; and is otherwise a responsible Respondent;

(i) Until the selected Respondent receives a fully executed and approved Agreement from the County, there is no legal and valid contract, in law or in equity, and the selected Respondent shall have no right to, and should not, begin to seek DPW approval.

(j) If, after the initial acceptance of Proposals, this Bed Transfer consisting of 97 beds is not completed in its entirety for any reason, Philadelphia County may use and treat as valid and open any other Proposals submitted under this RFP.

(k) Such submitted Proposal will remain valid and open to potential use by the County until this Bed Transfer is completed in its entirety.

(l) If this Bed Transfer is not completed in its entirety for any reason after the initial acceptance of Proposals, the County may disregard all Proposals submitted under this Request for Proposal and at its discretion issue a new RFP.

I-14. NOTIFICATION OF SELECTION. Taking into consideration all of the evaluation factors, the County will select Respondent(s) with whom it may engage in negotiations. The Issuing Office will notify the selected Respondent(s) of its selection for negotiations.

I-15. USE OF ELECTRONIC VERSIONS OF THE RFP. This RFP is available only by electronic means. If a Respondent electronically accepts the RFP, the Respondent acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Respondent's possession and the Issuing Office's version of the RFP on the web site, the Issuing Office's version shall govern.

I-16. TERMS AND CONDITIONS. By issuing this RFP the County shall not create any contractual rights or obligations by and between the County and any person or entity responding hereto.
PART II
INFORMATION REQUIRED FROM RESPONDENTS

II-1. PROPOSAL CONTENT and FORMAT Respondent must submit its Proposal in the format, including heading descriptions, outlined below and as set forth in the Appendices hereto. To be considered, the Proposal must respond to all requirements of this RFP. Any other information thought to be relevant, but not applicable to the enumerated categories should be provided as an appendix to Respondent’s Proposal. If submitting an appendix, it should be identified on the table of contents. A narrative summary, supported by the requirements noted herein shall address the following questions:

A. Provide a narrative that describes how the receiving provider will agree to achieve and maintain an MA day-one admission rate that is equal to or greater than PNH’s MA day-one admission rate or another MA day-one admission rate as may be agreed to by the Department.

B. Provide a narrative that describes how change in the bed complements of the receiving and surrendering providers will result in maintaining or improving access to medically necessary nursing facility services for MA recipients.

C. To the best of your knowledge, will provider receive an increase in reimbursement as a result of a change in its peer group if the bed transfer request is approved? If yes, describe in detail. http://www.dpw.state.pa.us/provider/doingbusinesswithdpw/longtermcarecasemixinformation/peergroups/index.htm

D. Will the proposed bed transfer result in a change in peer group assignments under this chapter for the surrendering or receiving provider? If yes, describe the negative effect the change will have on the MA Program, on MA recipients or on other facilities which are members of the affected peer group. http://www.dpw.state.pa.us/provider/doingbusinesswithdpw/longtermcarecasemixinformation/peergroups/index.htm

E. Will the approval of this bed transfer request result in increased costs to the MA Program? If yes, describe in detail.

F. How will the proposed project affect the Department’s goal to rebalance the publicly-funded long-term living system to create a fuller array of service options for MA recipients?

G. Describe in detail if there are alternatives to the transfer of beds, such as an increase in home and community-based services that would be less costly, more efficient or more appropriate in assuring that long-term living care and services will be provided under the MA Program in a manner consistent with applicable Federal and State law.

H. Does the applicant fully understand that the approval of a bed transfer request is not a determination that additional MA-certified beds are needed to maintain or improve MA recipients’ access to medically necessary services in the primary service area or county in which the receiving provider is located?
II-2. **STATEMENT OF POTENTIAL CONFLICTS OF INTEREST.** Respondent shall identify any relationships between itself or its employees or any related entity or their employees and the County of Philadelphia, any elected official of the County or any County staff which may present an actual or potential conflict of interest or the appearance of a conflict of interest.

II-3. **FINANCIAL FITNESS & OPERATIONAL ABILITY.** Demonstrate and provide information establishing that Respondent has the financial stability and ability to purchase the nursing beds.
PART III
CRITERIA FOR SELECTION

III-1. MANDATORY RESPONSIVENESS REQUIREMENTS. To be eligible for selection, a Proposal must be: (a) subject to the County’s reservation to accept late Proposals, timely received from a responsible Respondent; (b) responsive to the minimum criteria established by this RFP; and (c) properly executed by the Respondent.

- The Respondent shall certify that the representations made and the information provided in the bed request are true and correct to the best of the Respondent’s knowledge, information and belief.
- If the Respondent is a person other than the legal entity of the subject facility, the Respondent shall certify that the Respondent is authorized to submit the bed request on behalf of the legal entity and that the legal entity has reviewed and approved the contents of the bed request.

III-2. EVALUATION. The County will evaluate each responsive Proposal and based on the content of the Proposal, select Proposal(s) which the County believes would be the most successful in meeting the criteria for the approval of bed transfer requests (§ 1187.175(a)) by DPW.

III-3. MINIMUM REQUIREMENTS TO BE MET. Respondents must meet the following requirements to be considered for further consideration:

(a) The County is interested in selling the entire complement of 97 beds to a single bidder but will consider Proposals from multiple Respondents of less than 97 beds.

(b) Respondent must agree to accept full responsibility for preparing, communicating and submitting the Bed Transfer Request to the Pennsylvania Department of Welfare (DPW) for approval [Sample of Pennsylvania Department of Public Welfare Bed Transfer Request Application attached].

All legal fees and associated costs related to the preparation, submission and review of the Bed Transfer Request to DPW to affect the transfer will be borne solely by the Respondent(s). The County will cooperate and assist as reasonably necessary in supplying information it possesses related to DPW requests regarding this transaction.

(c) Respondent will agree to and execute a Bed Transfer Agreement which may be subject to negotiation but shall contain substantially the same terms and conditions as reflected in the sample Bed Transfer Agreement attached to this RFP as proposed by the County.
Appendix A
PROPOSAL REQUIREMENTS
Sale/Transfer of Nursing Home Beds
County of Philadelphia

Please provide the following information in your Proposal:

Cover Letter
Respondent will submit a cover letter signed by authorized signatory attesting to the accuracy and commitment stated within the Proposal. Failure to complete a cover letter with appropriate signatures may result in the rejection of the Proposal.

Basic Respondent Information
- Respondent Name
- Respondent Mailing Address
- Respondent Website (if applicable)
- Respondent Contact Name, Title, email, Telephone and Fax number.
- Respondent Federal Employer Identification Number

Offer Overview:
- Price offered per bed
- Number of beds desired
- Total Offer

Narrative Summary (Part II-I)

Ownership Information - § 1187.172(a)(1)
- Information on legal entity of the transferee facility: name, provider number, county and address - Please ensure information included in this section is consistent with information supplied to the Division of Program Operations and Management Provider Enrollment Section of the Department of Public Welfare.

- Names of all owners
  - For each owner identified, specify whether:
    - The person is a spouse, parent, child, sibling, or family member of another person identified
    - During the three year period preceding Proposal submission, the person is or was an owner of a nursing facility, whether or not the facility is located in the Commonwealth of Pennsylvania, and, if so, the name and address of each of the nursing facilities

- Names of related parties involved in the proposed purchase and description of the related parties’ involvement in the purchase.
  - For each related party identified, specify whether:
    - The person is a spouse, parent, child, sibling, or family member of another person identified
Ownership Information - § 1187.172(a)(1) (cont’d)

- During the three year period preceding the Proposal submission, the related party is or was an owner of a nursing facility, whether or not located in the Commonwealth of Pennsylvania, and, if so, the name and address of each of the nursing facilities.

Compliance History of Transferee Facility
For each question listed below, transferee facility shall specify whether or not any of the following applies, and, if so, the Respondent shall attach copies of all documents relating to the applicable action, including notices, orders or sanction letters received from the Federal Centers for Medicare and Medicaid Services or any state Medicaid, survey or licensing agency:

1. The facility was precluded from participating in the Medicare Program or any State Medicaid Program.
2. The facility had its license to operate revoked or suspended.
3. The facility was subject to the imposition of civil monetary penalties, sanctions or remedies under State or Federal law for resident rights violations.
4. The facility was subject to the imposition of remedies based on the failure to meet applicable Medicare and Medicaid Program participation requirements, and the facility’s deficiencies were graded as immediate jeopardy to resident health and safety.
5. The facility was designated a special focus facility by the Federal Centers for Medicare and Medicaid Services, indicating a poor performing facility.

Compliance History of Transferee Facility Ownership - § 1187.172(a)(4)
For each person identified in the ownership information section of the bed request as specified above, a Respondent shall specify whether or not any of the following applies, and, if so, the Respondent shall attach copies of all documents required:

1. The person is currently precluded or, at any time during the 3-year period preceding the submission of the Proposal, was precluded from participating in the Medicare Program or any State Medicaid Program.
2. The person is or, at any time during the 3-year period preceding the date of Proposal submission, was a party to, or the owner of a party to a corporate integrity agreement with the Department or the Federal government.
3. The person owned, operated or managed any nursing facility, including the subject facility, and, at any time during the 3-year period preceding the date of the bed request, one of the following applies:
   (a) Precluded from participating in the Medicare Program or any State Medicaid Program.
   (b) License to operate revoked or suspended.
   (c) Subject to the imposition of civil monetary penalties, sanctions or remedies under State or Federal law for resident rights violations.
   (d) Subject to the imposition of remedies based on the failure to meet applicable Medicare and Medicaid Program participation requirements and the facility’s deficiencies were graded as immediate jeopardy to resident health and safety.
   (e) Designated a special focus facility by the Federal Centers for Medicare and Medicaid Services, indicating a poor performing facility.
**Financial Information - § 1187.172(a)(3)**

The Respondent shall provide an overview of the proposed project (§ 1187.172(a)(2)) including a description of the population, primary service area intended to serve and the following financial data:

1. Project costs
2. Sources of project funds
3. Projected revenue sources by payor type (see attached sample of Pennsylvania Department of Public Welfare Bed Transfer Request Application for format)
4. Specific assumptions used and expected occupancy rates by payor type
5. Respondent is not required to submit a detailed feasibility or market study with the RFP, but if the Proposal is approved by City, then a detailed study showing revenues, expenses and if applicable, construction costs must be included with the Bed Transfer Request to the Pennsylvania Department of Welfare.

The Respondent shall provide independent audited or reviewed financial statements of the subject facility for the most recent year prior to the fiscal year in which the bed request is filed. If the financial statements are not available for the subject facility, the Respondent shall provide independent audited or reviewed financial statements of the legal entity or parent corporation of the subject facility for the most recent year prior to the fiscal year in which the bed request is filed.

**Census Information**

The Respondent shall provide the following information regarding facilities in the primary service area identified in the bed sale Proposal:

1. Data for last two years relating to the MA day-one admission rates and the MA occupancy rates of MA nursing facilities in the primary service area identified in the bed request;
2. Data for last two years relating to admissions and discharges at MA nursing facilities in the primary service area identified in the bed request, the county in which the subject facility is or will be located and, in the case of a bed transfer request;
3. If the Respondent is proposing to provide specialized medical services in the subject facility, data relating to the availability of those services in the primary service area identified in the bed request, the county in which the subject facility is or will be located;
4. Data for the last two years relating to the availability of home and community-based services in the primary service area identified in the bed request, the county in which the subject facility is or will be located and, in the case of a bed transfer request.
Appendix B
Philadelphia Nursing Home Nursing Home
Proposed Term Sheet

Purchaser: __________________________

Seller: Philadelphia Nursing Home Nursing Home

Form of Sale: Transfer/Sale of Licensed Nursing Facility Beds

Number of Beds Desired:

Purchase Price Per Bed:

Payment Terms: 50% of Purchase price in Escrow at signing of Bed Transfer Agreement, remainder upon submission by Purchaser of submission of the Bed Transfer Request to DPW. Payments by Purchaser to County are entirely non-refundable and are not contingent upon approval of the Bed Transfer Agreement by DPW.

Closing Timeline Requirements identified by Purchaser:

(1) How soon after receipt of DPW approval will Purchaser be prepared to accept the transfer of the beds;
(2) Whether any construction is necessary in order for Purchaser to receive the transferred beds, and if so, provide a timeframe for the completion of said construction including an outline of any zoning or permitting issues anticipated by the construction;
(3) Other than approval from DPW, whether Purchaser must secure any other approvals in order to close the transaction.

Agreed:

Purchaser__________________________  Seller __________________________

Name ______________________________  Name__________________________

Title ______________________________  Title__________________________

Date ______________________________  Date__________________________
APPENDIX C
SAMPLE BED TRANSFER AGREEMENT:
Minimum Required Elements

THIS AGREEMENT, made this ___ day of _____ 2014, by and between
the County of Philadelphia d/b/a Philadelphia Nursing Home Nursing Home (hereinafter
interchangeably referred to as the "Seller" or "Philadelphia Nursing Home") and
(hereinafter the "Purchaser").

RECITALS

WHEREAS, Seller
(1) Operates a 451-bed nursing facility known as Philadelphia Nursing Home
Nursing Home, located at Girard and Corinthian Avenues in Philadelphia, PA.;
(2) Is authorized and willing to reduce the number of licensed and MA certified
beds at Philadelphia Nursing Home in order to permit the transfer of such
beds to Purchaser in consideration of the terms of this Agreement; and
(3) Desires to sell and transfer 97 of its existing beds,

WHEREAS, Purchaser
(1) Is enrolled and certified as a provider of nursing facility services in the
Pennsylvania's Medical Assistance ("MA") Program and the Federal
Medicare Program;
(2) Desires to purchase from County’s Philadelphia Nursing Home, 97 beds and
to relocate those beds to its facility, known as _________________ located at
_______________.
(3) To effectuate the desired transfer of beds from Seller to Purchaser's facility,
Purchaser must submit to the Pennsylvania Department of Public Welfare
(hereinafter "DPW") a Bed Transfer Request in accordance with 55 Pa. Code,
Ch. 1187.161 et. seq., Nursing Facility Participation Requirements and
Review Process (hereinafter "Bed Transfer Request").

NOW, THEREFORE, in consideration of the mutual promises contained herein,
Purchaser and Seller, intending to be legally bound, hereby agree as follows:

(1) Bed Transfer. In exchange for the payment detailed in Section 2 below,
Seller shall transfer up to ninety-seven (97) beds from Philadelphia Nursing
Home to Purchaser pursuant to the terms and conditions outlined in this
Agreement. Written approval by DPW of Purchaser’s Bed Transfer Request is
required as a condition precedent for the Seller to decertify and remove the beds
from its licensed bed complement.
(2) **Payment Price.** Purchaser shall pay to Seller the sum of _______ Dollars ($_____) per bed for each of the 97 beds, that Seller decertifies from participation in the MA Program and transfers to Purchaser, plus an amount equivalent to forgone Disproportionate Share Payment (hereinafter "DSH Payment") as calculated from 2012 data, that the Seller otherwise would be eligible to receive if the 97 beds had been taken out of service permanently and removed from Philadelphia Nursing Home's license as of the date of this Agreement.

(3) **Payment Terms.**
   a) **Initial Deposit:** Purchaser shall pay to Seller Fifty Percent (50%) of the aggregated per bed purchase price (hereafter, the "Deposit"). Said amount will be placed in Escrow at the time of the execution of this Agreement. This Deposit is to be placed in an interest bearing account and the accumulated interest will be applied to the purchase price. The Deposit may be refundable in whole or in part to Purchaser subject to certain conditions outlined latter in this Agreement, or alternatively shall be disbursed and paid to the Seller as provided herein, or if the Purchaser fails to fulfill all of its obligations under or otherwise breaches this Agreement.

   b) **Remaining Balance:** The remaining fifty percent (50%) of the aggregated per bed purchase price in the amount of dollars shall be paid upon submission by Purchaser of submission of the Bed Transfer Request to DPW in accordance with the terms of Section 10 of this Agreement. Within thirty (30) days after Purchaser receives and accepts DPW's approval of the Bed Transfer Request, or within thirty (30) days of the settlement or other disposition of any appeal of a DPW denial which results in the approval of the transfer of all 97 beds, the Initial Deposit and Remaining Balance held in the Escrow Account shall be paid to Seller. These payments shall be non-refundable.

   c) **Interim Payments:** After the execution of this Agreement and until such time as the 97 beds are transferred to and placed in operation at Purchaser's facility or this Agreement is otherwise terminated, Purchaser will make periodic payments to Seller, equal to the amount of any lost or forgone DSH payments arising from Seller maintaining the 97 beds on Philadelphia Nursing Home's license until such time as the beds are placed in service at Purchaser's facility and thereby removed from the Philadelphia Nursing Home's license. These payments shall be made within thirty (30) days of notice from the Seller of the amount of the forgone or lost Disproportionate Share Payment.
(4) Request for DPW Approval of Bed Transfer. Purchaser will prepare a Bed Transfer Request for submission to DPW pursuant to the terms of this Agreement. Purchaser will afford Seller the opportunity to review the Bed Transfer Request prior to submission to DPW. Purchaser will submit the Bed Transfer Request to DPW within fifteen work (15) days of the date of the execution of this Agreement. Insofar as reasonably needed, Seller agrees to participate in the drafting of the Bed Transfer Request, but all costs incurred by Seller related to the drafting of the Bed Transfer Request, including legal fees shall be paid by Purchaser. Purchaser shall use its best efforts to obtain approval from DPW of Purchaser's Bed Transfer Request. Purchaser shall be responsible to pay all costs and legal fees related to the Bed Transfer Request, and Seller shall have no responsibility or obligation to pay for any costs or fees incurred by Purchaser related to the Bed Transfer Request.

(5) DPW Approval Condition Precedent to Certain Obligations.

**Seller Obligations:**

Continuation of License and Certification for the 97 beds. Seller shall continue to keep the 97 beds to be transferred to Purchaser on Philadelphia Nursing Home's facility license issued by DOH and certified for participation in the Medicare and MA Programs (and be eligible for MA Capital component payment) until such time as (a) Purchaser is ready and able to accept the 97 beds into Purchaser's facility, (b) this Agreement is terminated; (c) the date established by DPW for completion of the bed transfer in its approval of the Bed Transfer Request, or any extension thereof, or the date established by DPW to complete the transfer of the beds in any settlement or adjudication of an appeal related to the Bed Transfer Request or any extension thereof; or (d) such other date as mutually agreed upon by the parties. The parties agree to coordinate with all applicable governmental agencies to effectuate the decertification of the 97 beds at Philadelphia Nursing Home and simultaneous licensure and certification of the 97 beds at Purchaser's facility as of the applicable date for the transfer of the beds.

**Buyer Obligations:**

I. Possible Imposition of Approval Conditions by DPW.

(a) The parties recognize and acknowledge that DPW may impose certain conditions in conjunction with and final action to approve the Bed Transfer Request, including conditions related to minimum occupancy rates, minimum MA Day One admission rates, or approval of a lesser number of beds.
(b) Purchaser shall have a limited right to determine whether to accept or reject an approval from DPW which imposes certain conditions, including but not limited to such conditions as the 'approval to transfer a lesser number than the 97 beds requested, the maintenance of a particular MA occupancy percentage at Purchaser's facility, and/or a Day One MA Eligible admission policy or percentage at Purchaser's facility, in exchange for and as a condition for acquiring the beds. Purchaser's rejection of DPW's conditions must be reasonable, and in good faith. If DPW's approval is conditioned upon the 97 beds not receiving capital cost MA reimbursement, then the parties agree that such a condition shall not constitute reasonable grounds for the Purchaser to reject the approval, as this is an expected condition. Should DPW require Purchaser, as a condition of approval of the Bed Transfer, to maintain an MA Occupancy percentage or an MA Day One admission rate greater than the averages currently maintained by the Philadelphia Nursing Home then the parties agree that Purchaser's rejection of the approval granted by DPW with said conditions shall be deemed reasonable. If DPW imposes as conditions an MA occupancy rate or MA Day One Census equivalent to or less than the average MA rejection of an approval with said conditions shall be deemed unreasonable. If DPW's approval is for less than 97 beds, any rejection by the Purchaser of such approval shall be deemed reasonable. Purchaser shall inform Seller within five (5) business days of Purchaser's receipt of the DPW approval with conditions, of Purchaser's decision to accept or reject the conditions. The parties shall work collaboratively to determine if the conditions required by DPW are reasonable for Purchaser to accept.

(c) If Purchaser's rejection of any approval with conditions is, deemed reasonable by the parties or by the terms of this Agreement, then amounts paid after the initial Deposit may be refunded to the Purchaser if both parties agree to the City’s successful award to another Respondent in the RFP process and that all obligations under this Agreement shall terminate. If the Purchaser's rejection of any approval with conditions is deemed unreasonable by the parties or by the terms of this Agreement, then the Deposit shall be paid in full to the Seller and further obligations under this Agreement shall terminate. If the parties cannot agree as to whether the Purchaser's rejection of any approval with conditions should be deemed reasonable or unreasonable, then the Remaining Balance will be refunded to Purchaser and the Initial Deposit shall be paid to Seller and this Agreement shall terminate.

II. Possible Third Party Challenges:

Should any third party challenge DPW's approval of the Bed Transfer Request by an appeal or other administrative or judicial process, then the parties agree to discuss, in good faith, possible resolutions to such appeal and whether an amendment to this Agreement to alter the timelines imposed herein to reflect changes necessitated by the filing of a third party appeal is appropriate and feasible. If, within one hundred twenty (120) days following the filing of any such appeal, the parties are not able to either resolve the appeal with the third
party, or reach an accord on the continuing viability of the project through an amendment to this Agreement, then either party shall have the right to terminate this Agreement upon the provision of written notice to the other. If this Agreement is so terminated, the Deposit shall be refunded in full to the Purchaser, who shall have no further liability to Seller.

III. Denials and Possible Appeals.

Should DPW deny Purchaser's Bed Transfer Request, then Purchaser, in its sole discretion, shall determine whether to appeal that denial. Purchaser shall notify Seller of its decision as to whether to file an appeal within twenty (20) business days of its receipt of DPW's denial. If Purchaser elects not to appeal, fifty percent (50%) of the Deposit shall be paid to the Seller and the remaining balance shall be refunded to Purchaser and this Agreement shall terminate. Should Purchaser appeal DPW's denial, then the Deposit shall remain in the Escrow Account in accordance with Section 2(a) above. During the pendency of the appeal, Seller shall continue to maintain the licensing and certification of the 97 beds as required under Sections 5 and 9 of this Agreement and shall not market or transfer the 97 beds until the appeal and any further court proceedings are resolved or upon the expiration of three years, whichever is sooner, unless this timeframe is extended in writing by the parties. Seller shall have the option in its sole discretion to intervene or join as a party in Purchaser's appeal, to support Purchaser's efforts to obtain a reversal of DPW's denial of Purchaser's Bed Transfer Request. Purchaser shall have the right to withdraw its appeal at any time for any reason, or to settle the appeal on terms negotiated by Purchaser with DPW in Purchaser's sole discretion. Should Purchaser withdraw its appeal, without obtaining a reversal of the Bed Transfer Request denial, then the Deposit shall be paid in full to the Seller, this Agreement shall terminate; and each party's obligations under this Agreement shall cease. If Purchaser's appeal is ultimately unsuccessful and denied, the Deposit shall be paid in full to the Seller and this Agreement shall terminate.

(6) Exclusivity. While this Agreement is in effect, Seller shall not sell, market, transfer, or otherwise negotiate with another party for the 97 beds to be transferred to Purchaser. Similarly, while this Agreement is in effect, Purchaser shall not negotiate with another party to acquire beds for Purchaser's facility in replacement of or to the exclusion of the 97 beds to be transferred pursuant to this Agreement. Nothing in this Agreement, however, shall preclude Purchaser from acquiring beds in addition to the 97 beds from another source and nothing herein shall prevent Seller from selling any beds in addition to the 97 beds from Philadelphia Nursing Home.

(7) Construction of or Additions to Purchaser's Facility. If applicable or necessary to place the beds in service, Purchaser shall obtain all building permits, zoning approvals and other regulatory approvals needed to complete any
construction necessary to place the 97 beds in operation at Purchaser's facility. Delays unforeseen by the Purchaser, regardless of its best efforts will not relieve the Purchaser of its obligation to reimburse Seller for any lost or forgone Disproportionate Share Payments arising from maintaining the 97 beds on Philadelphia Nursing Home's license.

(8) **Miscellaneous.**

a) This Agreement shall bind and serve to benefit the successors and assigns of the parties.

b) This Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Pennsylvania.

c) This Agreement constitutes the entire Agreement between the parties. No other representations or understanding, written or verbal, shall be effective unless such statements, representations or promises are set forth in this Agreement.

d) Any Amendments to this Agreement must be in writing and executed by both parties.

e) If any provision of this Agreement is determined by a judicial or administrative tribunal of proper jurisdiction to be invalid or unenforceable, such provision shall be severed and the balance of this Agreement shall remain in full force and effect.

WHEREFORE, the parties, intending to be legally bound, by their duly authorized representative, hereby agree to the above conditions and terms.